

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #08	CCRB Case #: 202003710	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 8:00 PM	Location of Incident: 271 Flatbush Avenue	Precinct: 78	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 9:13 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 9:13 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Alvarez	03017	964372	078 PCT
2. POM Aron Baksh	07424	948639	078 PCT
3. POM Arthur Roldan	04638	942466	078 PCT
4. SGT Shapiro Lecorps	05255	932886	078 PCT
5. POM Travis Grant	18031	960615	078 PCT
6. POM Andrey Samusev	13822	958047	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Alvarez	Force: Police Officer Daniel Alvarez struck individuals with a vehicle.	
B.POM Andrey Samusev	Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.	
C.POM Andrey Samusev	Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.	
D.POM Andrey Samusev	Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.	

Officer(s)	Allegation	Investigator Recommendation
E.POM Andrey Samusev	Force: Police Officer Andrey Samusev struck individuals with a vehicle.	
F.POM Arthur Roldan	Abuse: Police Officer Arthur Roldan threatened individuals with the use of force.	
G.POM Arthur Roldan	Abuse: Police Officer Arthur Roldan damaged an individual's property.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
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§ 87(4-b) § 87(2)(g)		

Case Summary

Multiple individuals filed complaints regarding this incident after video footage of the protest was posted in the media. The CCRB first received the complaints on June 3, 2020. Additionally, this incident has been covered by various news and media outlets (Board Review 48-52). IAB investigated this case under case # FI-2020-0415. As of March 16, 2021, the Kings County District Attorney's Office has an open investigation regarding this incident. The investigation followed up with the District Attorney's Office several times since but has not received an update on the status of their investigation.

On May 30, 2020, at approximately 8:00 p.m., during a Black Lives Matter Protest at Flatbush Avenue and St. Marks Avenue in Brooklyn, civilians blocked PO Andrey Samusev and PO Travis Grant's, of the 78th Precinct, marked SUV from passing. PO Daniel Alvarez of the 78th Precinct subsequently arrived at the location, drove his marked SUV around PO Samusev's SUV, and struck unknown individuals (**Allegation A: Force, § 87(2)(g)**). PO Samusev then struck § 87(2)(b) and unknown individuals with his marked SUV (**Allegations B - E: Force, § 87(2)(g)**). At some point after, PO Arthur Roldan of the 78th Precinct drove his marked SUV down St. Marks Avenue, threatening a crowd with his marked SUV and running over a civilian's bicycle (**Allegations F: Abuse of Authority, § 87(2)(g)**; **Allegation G: Abuse of Authority, § 87(2)(g)**).

§ 87(4-b) § 87(2)(g)

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There is no BWC footage capturing this incident. The nature of the incident did not require PO Samusev, PO Alvarez, or PO Roldan to turn on their BWC. However, Sgt. Lecorps, PO Grant, and PO Baksh were required to, but failed to do so (see OMN). The investigation is in possession of video clips posted on the social media platform Twitter and surveillance video from a grocery store (The MarketPlace) located at 271 Flatbush Avenue.

NYPD IAB Group 54 and Group 41, cleared PO Samusev, PO Grant, PO Alvarez, and PO Baksh of misconduct (Board Review 65 (pages 8-10) and Board Review 66 (pages 42-47)).

Findings and Recommendations

Allegation (B) Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.

Allegation (C) Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.

Allegation (D) Force: Police Officer Andrey Samusev struck § 87(2)(b) with a vehicle.

Allegation (E) Force: Police Officer Andrey Samusev struck individuals with a vehicle.

It is undisputed that there were hundreds of civilians who attended a protest in the vicinity of Flatbush Avenue. The starting point of the protest is unclear, but at approximately 8:00 p.m., the protest moved northbound on Flatbush Avenue away from the Grand Army Plaza. Civilians were on the street and on the sidewalk as they proceeded northbound. The investigation identified and interviewed two witnesses, § 87(2)(b) and § 87(2)(b) and a victim, § 87(2)(b). IAB interviewed five witnesses, § 87(2)(b), and § 87(2)(b). § 87(2)(b) was uncooperative during the CCRB's investigation. To date, the Kings County District Attorney's Office lifted their hold on this case, however their investigation remains pending. None of the officers involved have been charged and the CCRB has not received any additional information regarding their investigation. As noted above, IAB cleared all of the

officers of any misconduct (Board Review 66; pages 42-47).

§ 87(2)(b) and § 87(2)(b) joined the protest at different points, but were present during the incident on St. Marks and Flatbush Avenue. § 87(2)(b) and § 87(2)(b) witnessed the incident at a distance.

In her CCRB testimony, § 87(2)(b) stated she joined this protest approximately 5-10 blocks prior to Flatbush Avenue and St. Marks Avenue (Board Review 03). § 87(2)(b) recalled the civilians chanting, “Black lives matter,” and “NYPD is racist,” but did not hear them threaten officers. § 87(2)(b) first noticed a marked SUV (RMP # 3555 operated by PO Samusev) when the civilians were approaching St. Marks Avenue. The civilians subsequently turned towards PO Samusev’s vehicle. The officers never said anything to the civilians over the loudspeaker or otherwise. The police lights were on, but the sirens were not activated. Protestors had not hit or throw anything at PO Samusev’s vehicle at this point. PO Samusev’s vehicle stopped immediately before a barricade and then activated its lights. Civilians then threw loose water and a water bottle at PO Samusev’s vehicle and placed an orange cone on the hood of it. § 87(2)(b) did not see civilians throwing anything else at PO Samusev’s vehicle. Although there were civilians to the side of PO Samusev’s vehicle, they were more spaced out compared to the group standing behind the barricade. There were civilians on the sidewalk, in front of buildings, and on the roof of buildings. There was no one immediately behind PO Samusev’s vehicle at the time and there was never a crowd behind it.

In her CCRB statement, § 87(2)(b) joined the protest from Empire Boulevard (approximately 1.3 miles from the incident location) (Board Review 04). Prior to arriving at St. Marks Avenue, § 87(2)(b) saw a few individuals move construction barricades to the street and knock over trash cans. § 87(2)(b) did not hear anyone make any threats. § 87(2)(b) saw a police vehicle drive down a side street and turn the opposite way upon seeing the group of protestors. At some point in the vicinity of St. Marks Avenue and Flatbush Avenue, § 87(2)(b) heard the sirens from a marked SUV and saw a crowd of people. Based on the description, the investigation was unable to identify who was inside this marked SUV. The marked SUV remained in place for a short time before driving slowly onto a side street. § 87(2)(b) did not see this marked SUV hit any civilians. As § 87(2)(b) turned around to walk forward towards Saint Marks Avenue, she saw another marked SUV, determined to be PO Samusev’s vehicle, with a trash bag on its roof. § 87(2)(b) did not recall how PO Samusev’s vehicle got there, but the vehicle was stationary. There were approximately 50-75 people by PO Samusev’s vehicle and most of the people were by the front of the vehicle. The civilians yelled, “Get out,” and, “Fuck 12.” Aside from water bottles, § 87(2)(b) did not recall if there were other objects thrown at this vehicle.

In his CCRB statement, § 87(2)(b) stated he was originally with a larger protest of approximately thousands of people by the Barclay Center before he walked down Flatbush Avenue (Board Review 05 and 06). § 87(2)(b) joined a crowd of approximately 20-30 people standing by a metal barrier in the middle of the street on Flatbush Avenue and St. Marks Avenue. § 87(2)(b) saw PO Samusev’s vehicle, with its lights and sirens engaged, stopped on the street. § 87(2)(b) did not recall the officers saying anything and did not hear civilians threatening the officers at this point. The people were calm. Some were holding onto the metal barrier in front of PO Samusev’s SUV, obstructing its path, but § 87(2)(b) did not know how the barricade ended up there. Civilians threw plastic bottles and rubber cones at PO Samusev’s vehicle. There was possibly a crack on the windshield of PO Samusev’s vehicle, but § 87(2)(b) did not see what caused the damage. There were people standing to the side of PO Samusev’s vehicle, but § 87(2)(b) did not recall if anyone stood behind it. However, § 87(2)(b) did not see anything that, in his opinion, prevented PO Samusev’s vehicle from reversing. As § 87(2)(b) was looking at a second marked SUV (RMP #4403 operated by PO Alvarez) driving around PO Samusev’s vehicle, PO Samusev drove into the barricade and the

crowd, striking § 87(2)(b) right rib area. § 87(2)(b) allegedly sustained a contusion to his ribs, three herniated discs on his neck, and unspecified injuries to his shoulders. § 87(2)(b) did not provide his medical records to the CCRB.

In her IAB statement, § 87(2)(b) saw water bottles and an orange cone being thrown at PO Samusev's vehicle (Board Review 14). § 87(2)(b) did not see what damage PO Samusev's vehicle, but she saw some of the windows broken.

§ 87(2)(b) and § 87(2)(b) watched the group of protestors from their home's window (Board Review 15 and 16). They saw a group form by Flatbush Avenue and St. Marks Avenue and § 87(2)(b) drag a barricade to the middle of the street. As PO Samusev's SUV proceeded down Flatbush Avenue, additional people stood behind the barricade and blocked PO Samusev's SUV. § 87(2)(b) stated that the people to the side of the vehicle were further away. The civilians threw water bottles, trash, and a traffic cone at PO Samusev's vehicle. § 87(2)(b) stated that people appeared to be upset.

§ 87(2)(b) stated that people surrounded PO Samusev's vehicle and used a store sign to break the vehicle's window. § 87(2)(b) and § 87(2)(b) statements were brief and did not add any additional context or otherwise corroborate the other civilians' statements (Board Review 17 and 18).

PO Samusev's and PO Grant's testimony were largely consistent regarding the events leading up to the incident. At approximately 7:49 p.m., PO Samusev and PO Grant responded to officers requesting assistance at Grand Army Plaza and Flatbush Avenue. PO Samusev drove, and PO Grant was in the front passenger seat. Upon arriving at the location, the request was cancelled. PO Samusev, PO Grant, PO Thomas Dicamillo, and PO Inna Miroshnyk of the 78th Precinct remained by the entrance of the arch at Grand Army Plaza. PO Dicamillo and PO Miroshnyk were assigned to Sector B and were inside a separate vehicle than PO Samusev and PO Grant. PO Dicamillo and PO Miroshnyk left first to resume patrol and drove northbound on Flatbush Avenue. Approximately one minute later, PO Samusev and PO Grant drove northbound on Flatbush Avenue. At this point, PO Samusev and PO Grant's marked SUV was in good condition prior to driving on Flatbush Avenue except for some dents around the SUV that existed prior to this incident.

As PO Samusev and PO Grant travelled on Flatbush Avenue, PO Dicamillo and PO Miroshnyk requested for additional assistance at Flatbush Avenue and Prospect Place over the radio. PO Dicamillo and PO Miroshnyk stated they were surrounded, people smashed their windows, and objects that were thrown from above them. PO Samusev and PO Grant then responded by driving to Flatbush Avenue and Prospect Place. In his CCRB statement, PO Grant stated that he is familiar with PO Miroshnyk and she does not usually scream, which made PO Grant believe that their lives were in danger (Board Review 13). PO Samusev engaged his vehicle's lights and sirens as he drove towards Flatbush Avenue and Prospect Place. PO Grant saw barricades "tactically" placed on the street by Flatbush Avenue and 7th Avenue, causing PO Samusev to weave around them. In his CCRB interview, PO Samusev did not mention whether barricades placed on the street at this point (Board Review 07). PO Samusev and PO Grant did not see any police vehicles by Prospect Place and St. Marks. There were approximately 150-500 people on the street and sidewalk, but PO Grant saw space in the middle of the street for their marked SUV to drive through. Both officers stated that at Flatbush Avenue and Prospect Place, civilians threw objects, including a brick, at PO Samusev's vehicle. A brick shattered their vehicle's driver-side window, hit PO Samusev, and caused the glass shards to fall on PO Samusev. PO Samusev sustained lacerations and bruising to his left arm. PO Samusev stated that the driver side window was completely gone, but the bulletproof glass was intact and partially covering the driver-side window area. PO Grant stated that

the civilians shouted, “Get out”, saying they “were stuck,” they “got them now,” they are “screwed now,” “Fuck the police,” and, “We’re going to kill you.” A civilian also said, “We’re going to go after the white guy that’s driving. We’re going to kill him.” PO Samusev did not know what other objects hit his vehicle, but objects were hitting it from all different directions. PO Grant stated that a second brick went through the driver side window and hit him. PO Grant also saw various objects such as metal signs, bricks, water bottles, and unknown liquids being thrown at their vehicle. Some of the liquid splashed on PO Grant and PO Samusev. PO Samusev slowed down but continued driving northbound on Flatbush Avenue for the sole purpose of finding PO Dicamillo and PO Miroshtnyk.

At St. Marks Avenue and Flatbush Avenue there were approximately 100-150 people scattered about the street and sidewalk, but PO Grant and PO Samusev saw a space wide enough for their vehicle to drive through. Objects were continuously thrown at PO Samusev’s vehicle. As PO Samusev’s vehicle approached St. Marks Avenue, civilians suddenly placed a metal barricade in front of their vehicle. In response, PO Samusev applied the brakes to stop his vehicle. PO Samusev never put his vehicle in park but kept his foot on the brake pedal. While their vehicle was stopped, PO Samusev heard the vehicle’s windows shatter, but he did not know which windows. PO Samusev never used the PA system because he was not thinking about it as he feared for his life at that moment and was focused on getting out of the situation. PO Grant stated that civilians formed crowds in front of their vehicle and the crowd from Prospect Place and Flatbush Avenue blocked their vehicle from behind. PO Grant stated that there were approximately 200-300 civilians approximately two or three car lengths behind PO Samusev’s vehicle. There were also civilians on the passenger and driver side of their vehicle. PO Grant stated that as their vehicle was stationary, civilians threw water bottles, sprayed liquids all over and inside their vehicle and threw bricks and other large objects breaking the rear driver side window and rear window. PO Grant denied having any conversation with PO Samusev about driving forward and PO Samusev did not recall if he had any conversation with PO Grant. At this point, PO Grant believed he was going to die because the civilians were threatening them and a few more bricks and liquid came through the driver side window. There were also objects that were thrown at the front, rear, and sides of the vehicle. PO Samusev did not look behind his vehicle because he was focused on the larger group that was in front of him and the people running and approaching by the driver side. PO Grant and PO Samusev never used the loudspeaker because they feared for their lives at that moment and were focused on getting out of the situation. At some point while their vehicle was still stationary, PO Grant raised his left hand and bent down to block an unknown object coming towards him. At around this point, PO Samusev stated that he heard something hit his vehicle which made a loud noise causing him to flinch and accidentally let his foot off the brake pedal. His vehicle subsequently moved forward and pushed the barricade back. PO Samusev denied pressing on the gas pedal or intentionally running his marked SUV into the barricade. PO Samusev said he never shifted the car into park. PO Samusev and PO Grant stated that they did not have any discussions with each other prior to the car moving forward. PO Samusev subsequently applied the brakes again to stop the vehicle. PO Grant stated that he did not know what caused their vehicle to move forward, but he described the movement as a jerk. PO Grant told PO Samusev “Stop, stop, stop,” as the vehicle went forward and he did not lift his head up until the vehicle came to a complete stop. PO Samusev and PO Grant subsequently exited the vehicle. PO Samusev stated that after he exited the vehicle, he was hit with unknown objects, but video footage showed that he was hit with a traffic cone and a water gallon (Board Review 55). PO Samusev then went to the rear driver side to get his helmet, shield, and baton to protect himself. A group of civilians escorted PO Samusev and PO Grant away from the area as they waited for additional units to arrive and the crowd dispersed after additional units arrived.

PO Samusev and PO Grant denied having been trained on what to do when having their vehicle

surrounded by civilians.

PO Alvarez and PO Baksh responded to the same radio run regarding PO Dicamillo and PO Miroshnyk's calls for assistance (Board Review 08 and 12). Upon approaching St. Marks and Flatbush Avenue, PO Alvarez and PO Baksh saw PO Samusev and PO Grant's marked SUV stopped by the intersection. In his CCRB statement, PO Alvarez stated that he saw civilians throwing objects at PO Samusev and PO Grant's vehicle. PO Baksh stated that he did not know what was happening to PO Samusev and PO Grant's vehicle because he was not focused on it. PO Alvarez did not recall what was behind PO Samusev and PO Grant's vehicle, but there were people "all over." PO Alvarez and PO Baksh could not describe anything else regarding this other vehicle because they were occupied with what was happening to their vehicle.

Sgt. Lecorps and PO Roldan also responded to the same radio run, but they travelled southbound on Flatbush Avenue (Board Review 09-11). Sgt. Lecorps never saw another RMP on Flatbush Avenue, but PO Roldan saw a crowd of people and flashing lights from RMPs approximately one to one-and-a-half blocks in front. PO Roldan's view of the other RMPs was obstructed by the big crowd of people.

IAB interviewed PO Samusev, PO Grant, PO Alvarez, PO Baksh, Sgt. Lecorps, and PO Roldan and their testimonies were consistent with their CCRB interviews (Board Review 67).

According to their Line of Duty Injury Reports, PO Grant was diagnosed with left arm/shoulder musculoskeletal strain and neck pain from rocks and "other items" being thrown at him (Board Review 19). PO Samusev was diagnosed with lacerations and bruising to his entire left arm and left hand. It was noted by the Patrol Supervisor that a rock smashed through the driver side's window and struck PO Samusev's left upper arm causing a bruise to his left bicep.

The details in the Collision Report and Police Accident Report (PAR) for PO Samusev's vehicle, prepared by Sgt. Angelo Pirozzi of the 78th Precinct, were generally consistent with PO Samusev and PO Grant's CCRB statements, except the report noted that PO Grant stated that a projectile shattered the windshield and another shattered the passenger window striking the driver (Board Review 20). PO Samusev prepared a Threat, Resistance, and Injury report and reported that the objects were thrown at officers and officers were struck with objects (traffic cone and garbage can). PO Samusev also noted that the type of forces used by officers was "not applicable" and the force was unintentional (Board Review 64).

The photo entitled "\1590907997088_driversided.png", obtained from IAB case #2020-0415, shows damages to the three windows on the driver side (Board Review 21). The photo entitled "\1590908153056_rocksinside.png", obtained from the same IAB case, shows a rock in the floorboard of the vehicle and glass shards on the driver seat (Board Review 21).

There were multiple EVENTS generated in regard to this incident, but they were consolidated within EVENT #D20053021938 and #D20053021986 (Board Review 22). According to EVENT D20053021938, at 7:54 p.m., Unit 78B1 (PO Dicamillo and PO Miroshnyk) requested for additional assistance regarding "air mail" (objects being thrown). At 7:55 p.m., they stated that they were on 7th Avenue and Prospect Place. According to EVENT D20053021986, at 7:56 p.m., Unit 78A1 (PO Samusev and PO Grant) requested for assistance and stated that they were cornered. At 7:58 p.m., Unit 78A1 relayed "air mail". There were no additional radio transmissions from 78B1 from either EVENTS.

According to the NYPD radio communications audio, the time that elapsed from PO Miroshnyk

and PO Dicamillo's initial call for assistance to PO Grant and PO Samusev leaving the scene was approximately five minutes (Board Review 23). At 00:30 of the NYPD radio communications audio, Sector 78B (PO Dicamillo and PO Miroshnyk) relayed that a large group was travelling northbound on Flatbush Avenue. Sector 78B then relayed that objects were thrown from buildings and they needed assistance at Prospect Place and Flatbush Avenue. At 00:54, Sector 78A (PO Samusev and PO Grant) stated they were a block away and en route. At 1:00, PO Miroshnyk requested for additional units twice. At 1:31, Sector 78A arrived at Prospect Place and Flatbush Avenue. At 2:06, PO Miroshnyk loudly relays, "85, 85 (request for additional units) !" At 02:24, Sector 78A repeatedly relays, "Air mail." PO Dicamillo stated that their RMP was getting destroyed. At 02:40, Sector 78A requested for all units to respond. At 2:55, Sector 78A reported that people cornered them on Flatbush Avenue and St. Marks Avenue, and they were alone. At 4:08, Sector 78D (PO Alvarez and PO Baksh) requested to keep other units away because the people were hitting RMPs and breaking the glass. Sector 78D subsequently requested for ESU and "everybody" to respond. At 5:54, Sector 78B stated that they were at 6th Avenue and Flatbush Avenue.

In their CCRB statement, PO Samusev and PO Grant stated that they did not turn their BWC because they were focused on what was happening around them. Video footage obtained from "The MarketPlace" located at 271 Flatbush Avenue, (corner of Flatbush Avenue and St. Marks Avenue), partially captured the incident from the sidewalk (Board Review 02). At the start of the video, numerous civilians are seen walking on the street and close to top of the screen it appears that a civilian is dragging an orange metallic construction barricade. There is a group of civilians following behind that civilian who dragged the barricade. Civilians are seen walking in the same direction, from the left side of the screen to the right, until around 00:46. At 00:46, a marked SUV (PO Samusev's vehicle, with its lights engaged, drives behind the crowd from the left to the right of the screen. At 00:50, PO Samusev's vehicle stops in the middle of the street, but only the rear bumper is depicted on the screen. Some of the individuals are running towards the direction of PO Samusev's vehicle. It is unclear what is happening to PO Samusev's vehicle at this point. At 1:04, an individual wearing the American flag on his back throws a bag of garbage towards PO Samusev's vehicle. At 1:20, PO Samusev's vehicle moves forward towards the right of the screen and goes out of the frame. The investigation determined that this footage captured the events leading up to PO Samusev driving into the barricade and the crowd.

The investigation is in possession of an aerial view of the incident, recorded by § 87(2)(b) (Board review 24). The footage opens with PO Samusev's vehicle stopped in the middle of Flatbush Avenue. Civilians push an orange metal gate immediately in front of the PO Samusev's vehicle. Dozens of civilians are immediately in front of the vehicle and dozens more are standing alongside and behind the vehicle. From approximately 00:06 - 00:14, multiple civilians throw various objects at PO Samusev's vehicle, including bottles, traffic cones, and what appears to be a bag of garbage. It is unclear what else, if anything, is thrown at the PO Samusev's vehicle. Civilians continuously converge from the front and rear of the vehicle, but the civilians are standing more densely by the front of the vehicle. At 00:14, a second marked SUV, (vehicle #4403 operated by PO Alvarez), appears from the left side of the screen (on the passenger's side of PO Samusev's vehicle) and drives alongside it with its lights and sirens flashing. At 00:21, PO Samusev's vehicle accelerates forward into the metal gate and the civilians in front of it. Many of the civilians are thrown back and to the side of the vehicle, and the orange barricade bends near the middle. Civilians continue to throw objects at the SUV and strike it with their hands and feet. It does not appear that any of the windows on the passenger side are damaged.

The investigation is in possession of a street-view angle of the incident obtained from Twitter (Board Review 30). This video is largely consistent with what was captured in § 87(2)(b) s

video. Between 00:02 and 00:09, it appears that water bottles and various unidentifiable objects are thrown at PO Samusev's vehicle from the front and rear. The video starts with the PO Samusev's vehicle stopped in front of a barricade and a large group of protestors. At 00:03, it appears that the driver side window of PO Samusev's vehicle is broken (Board Review 68). Although PO Samusev's vehicle is stopped, the brake lights are not engaged until 00:10, indicating that the car was not in drive until that time. The brake lights then disappear at 00:11 while the PO Samusev's vehicle is still stationary until 00:18, indicating that the car was again not shifted into drive. At 00:18, PO Samusev's vehicle moves forward and stops at 00:19. The brake lights are engaged again between 00:19 and 00:23. Another marked vehicle (identified as PO Alvarez and PO Baksh's vehicle, drives around PO Samusev's vehicle at 00:17. However, PO Samusev stated that he did not see this marked vehicle at the time of the incident. PO Grant stated that he saw the other marked vehicle as their vehicle was stopped on Flatbush Avenue, but he did not have a conversation with PO Samusev about this vehicle and did not know if PO Samusev made this observation.

It is undisputed that PO Samusev and PO Grant responded to PO Dicamillo and PO Miroshnyk's calls for assistance. The NYPD radio communications audio corroborates PO Grant's testimony regarding hearing PO Miroshnyk's screams, § 87(2)(g). The last location PO Miroshnyk provided was Prospect Place and Flatbush Avenue. Thus, PO Samusev drove straight down Flatbush Avenue from Grand Army Plaza. PO Samusev's lights and sirens were activated as they drove to the location, alerting people of their presence. § 87(2)(g)

§ 87(2)(g) video footage showed that the driver side window was completely broken with only the bullet-proof glass intact and partially covering the window when their vehicle was stopped on Flatbush Avenue and St. Marks Avenue. Although video footage only showed what appears to be water bottles, cones, and a garbage bag thrown at the PO Samusev's vehicle, photos taken by the NYPD after the incident, showed rocks and shattered glass inside the marked SUV. § 87(2)(g)

Although photos from the IAB case file shows all of the windows on the driver side of the vehicle damaged and PO Grant mentioned in the Collision Report that the passenger window was damaged, the videos show that only the driver window of PO Samusev's vehicle was damaged. At the time that PO Samusev drove into the crowd, all of the other windows appear to be undamaged. The entire 23-second-long cellphone footage and another cellphone footage between 00:12 and 00:57, captures civilians attacking PO Samusev's vehicle after PO Samusev and PO Grant walk away from the vehicle. It shows a civilian hitting the rear passenger window with a skateboard and a civilian hitting the driver door area with a bat or other long metal object.

NYS Penal Law § 10.00 defines dangerous instruments as "any instrument, article or substance, including a "vehicle" as that term is defined in this section, which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or other serious physical injury" (Board Review 25).

NYPD Patrol Guide Procedure 221-01 states that the use of deadly physical force can only be used to protect MOS and/or the public from imminent serious physical injury or death (Board Review 27).

New York State Penal Law § 35.15 (Justification; use of physical force in defense of a person), states that, "a person may not use deadly physical force upon another person...unless: [t]he actor reasonably believes that such other person is using or about to use deadly physical force (Board

Review 69). Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is: a police officer...acting pursuant to section 35.30.

NYS Penal Law § 35.30 (Justification; use of physical force in making an arrest or in preventing an escape) specifies that deadly physical force may be used for such purposes only when the officer reasonably believes that the offense was a specified felony or “[r]egardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force (Board Review 26).

NYS Penal Law § 35.30 further states that “[t]he fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody.”

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

PO Samusev testified that he did not put the police vehicle in park at any point and that the car moved forward accidentally. However, video footage showed that at certain points of the video the police vehicle was not moving and the brake lights were not engaged § 87(2)(g)

[REDACTED]

§ 87(2)(b) PO Samusev and PO Grant were only .1 mile from the 78th Precinct. They did not call for back-up nor did they use the loudspeaker to warn the crowd before driving forward.

§ 87(2)(g)

Allegation (A) Force: Police Officer Daniel Alvarez struck individuals with a vehicle.

It is undisputed that PO Alvarez drove his marked SUV around PO Samusev's stopped SUV on Flatbush Avenue and St. Marks Avenue and then into a crowd of protestors. In the IAB case, IAB exonerated an allegation of a vehicle strike against PO Alvarez (Board Review 66; pages 45-46).

In § 87(2)(b)'s testimony, she stated that the second marked SUV, vehicle #4403, operated by PO Alvarez, slowly drove behind PO Samusev's stopped SUV before driving around it. Some of the civilians walked in front of PO Alvarez's vehicle. A few civilians subsequently jumped out of the way of PO Alvarez's vehicle while others placed their hands on the hood of the vehicle to move away from it. (Board Review 03). § 87(2)(b) stated that PO Alvarez's vehicle proceeded at a slow enough pace to give people time to move away but fast enough to surprise the civilians. The civilians never threw anything at PO Alvarez's vehicle and none of the civilians struck it. § 87(2)(b) never mentioned seeing PO Alvarez's vehicle (Board Review 04).

In § 87(2)(b)'s statement, when he turned to look at PO Alvarez's vehicle, PO Samusev's vehicle ran into the barricade and into him (Board Review 05 and 06). § 87(2)(b) did not see objects thrown at PO Alvarez's vehicle or see it damaged.

In her IAB statement, § 87(2)(b) stated that civilians were not directly in front of PO Alvarez's vehicle as he slowly accelerated past them.

In her IAB statement, § 87(2)(b) stated that PO Alvarez's vehicle slowed down as the civilians approached it, but they never tried to block his vehicle. § 87(2)(b) did not recall if objects were thrown at the second SUV.

In his IAB statement, § 87(2)(b) stated that PO Alvarez's vehicle quickly drove towards the civilians and the civilians moved in front of his vehicle. § 87(2)(b) stated that the vehicle slowed down and people approached and tried to block the vehicle. The civilians chased the second marked SUV and threw garbage at it.

As mentioned above, PO Alvarez and PO Baksh, assigned to Sector D and to RMP #4403, were also responding to the same radio run as PO Samusev and PO Grant at approximately the same time. In their CCRB testimonies, PO Alvarez and PO Baksh did not recall the route they took or which street they entered Flatbush Avenue on (Board Review 08 and 12). At approximately half a block before Flatbush Avenue and St. Marks Avenue, PO Alvarez saw PO Samusev's vehicle stopped on Flatbush Avenue and St. Marks Avenue; however, he did not know whose vehicle it belonged to at the time of incident. PO Alvarez and PO Baksh estimated there were several hundred people scattered on the street. PO Baksh heard people scream and curse at the officers. As PO Alvarez approached PO Samusev's vehicle, § 87(2)(b) struck PO Alvarez's vehicle with a

baseball bat, taking out the vehicle's passenger headlight. At this point, civilians began approaching PO Alvarez's vehicle from behind and the sides. PO Alvarez stated that he believed they were being ambushed. PO Alvarez stated that people threw objects such as rocks, bricks, trash, and liquids towards the driver side of PO Alvarez's vehicle. PO Alvarez stated that it was difficult to see what specific objects were thrown, but hard objects bounced off the glass. PO Baksh also saw objects thrown at their vehicle, but he did not know what objects were thrown. PO Baksh stated that the back window was also damaged at this point, but he did not know what damaged it; PO Alvarez also heard the window break. PO Baksh stated that there were people approximately a foot away by the passenger side, but he did not know how many people there were. There were also civilians close to the driver side as well. PO Baksh did not look behind their vehicle, but PO Baksh knew there were people behind their vehicle because they drove past people to get to their location.

PO Alvarez continued to drive forward because he wanted to get out of the dangerous situation and there was § 87(2)(b) with a baseball bat and other civilians behind his vehicle. PO Baksh stated that the individual with the baseball bat also swung the baseball bat against the passenger side of the vehicle multiple times causing PO Baksh to fear for his life. PO Alvarez and PO Baksh saw an open path by the crowd of civilians wide enough for their vehicle to drive through.

In their CCRB testimonies, PO Alvarez and PO Baksh stated that as PO Alvarez continued driving towards the open path, civilians came in front and to the sides of their vehicle. PO Alvarez stated that the civilians were approximately five feet from the driver side. Based on the above observations, PO Baksh believed that the people were trying to enter their vehicle and kill him. At this point, PO Baksh did not believe there was an option to turn the vehicle around because there were people behind them and the only option was to go forward. PO Baksh stated that when the crowd came in front of their vehicle, their vehicle separated the crowd by physically moving the people from the front to the sides. PO Baksh did not recall if he went on the loudspeaker at this point. PO Baksh believed that if he and PO Alvarez stayed at the location they would have been killed. After the people were moved to sides, PO Baksh and PO Alvarez got out of there safely and went to the stationhouse.

PO Alvarez did not recall if civilians stood in the middle of the hood area in front of their vehicle, but he saw people by the headlights of the vehicle. PO Alvarez stated that he did not turn his vehicle around because if he turned his vehicle around then he would have to face the individual with a baseball bat. There were also people on both sides of the vehicle, which caused PO Alvarez to be stuck in a position where he could only drive forward. Throughout the entire time, PO Alvarez's foot was on the brake and was stopping and inching his vehicle forward. PO Alvarez continued to inch his vehicle while the civilians in front of the vehicle prevented PO Alvarez from leaving. PO Alvarez believed that the civilians came into contact with the vehicle first. PO Alvarez did not see any civilians fall. PO Alvarez stated that he successfully drove through the gap by inching forward and then there was a clear path after. PO Alvarez believed that the civilians who were in front of his vehicle "just got off" and let him through. PO Alvarez and PO Baksh were not injured during this incident.

PO Alvarez and PO Baksh denied having been trained on what to do when having their vehicle surrounded by civilians.

The following footage is from the aerial view of the incident recorded by § 87(2)(b) (Board Review 24). PO Alvarez and PO Baksh's marked SUV appears from the left side at 00:13. Between 00:00 to 00:13, there is a crowd standing in a semi-circle lined up from the east to west side of the street in front of PO Samusev's vehicle. At 00:13, PO Alvarez drives to the right of PO Samusev's vehicle towards a less dense area of the crowd, but there are still people standing in the area. At

approximately 00:17, a civilian who appears to be a white female with blonde hair wearing a black tank top and blue jeans, who was initially in the less dense area of the crowd, continues to stand in the direction of PO Alvarez's vehicle as it moves closer to her. As the vehicle comes near the female, several individuals approach the side of the hood of PO Alvarez's vehicle and place their hands against the side of the hood and hit it. Other individuals stand in front of the vehicle while some lean against the hood. Objects are thrown at PO Alvarez's vehicle, but aside from an orange construction cone it is unclear what else is thrown. It also appears that a civilian raises their bicycle up to the front passenger door, making contact with the passenger side mirror. A civilian then places their upper torso against the vehicle with their arms outstretched and hangs on to the hood. As the vehicle drives off, the individuals are then moved to the side by the vehicle. Between 00:13-00:25, it appears that there is no damage to the windshield, passenger side windows, or the rear windshield of the vehicle. Due to the angle of the camera, the driver side windows are not captured.

At 00:12 of the video footage depicting the street-view of the incident obtained from Twitter, it appears that none of the driver side windows are damaged (Board Review 30).

In the Collision Report, PO Alvarez and PO Baksh stated that they were ambushed by unruly protestors and tried to evade projectiles after the side rear window was shattered when responding to a call to assist officers (10-13).

The Unusual Occurrence Report (UF49) noted that PO Alvarez's vehicle's passenger headlight was "smashed" (Board Review 47).

The investigation received a photo depicting damage to the rear driver quarter window, but it is unclear when this occurred and what damaged it.

§ 87(2)(g)

the video evidence does not capture

§ 87(2)(b) swinging a bat at the vehicle and this was not documented in the Collision Report or PAR; the UF49 mentioned the damage to the headlight, but not what caused it (Board Review 20 and 47). The video footage also contradicts PO Alvarez and PO Baksh's account that they saw a space wide enough for their vehicle to fit through the crowd. When questioned about the inconsistency, PO Alvarez pointed to the gap between a male on a bike and the female with blonde hair wearing a black shirt and blue jeans depicted between 00:13 and 00:17 seconds in the aerial footage and he stated that it was difficult to see due to the angle, but the space was "more or less, maybe a little smaller." PO Baksh stated the aerial view did not depict the space he saw because of the angle, but he stated that the gap was in the lane where there was a white street marking noting "only." Finally, the footage does not show the car "inching forward." The car drives fairly slowly into civilians and then picks up speed as they drive away. § 87(2)(g)

PO Alvarez and PO Baksh were only .1 mile from the 78th Precinct. Like PO Samusev and PO Grant, they did not call for back-up nor did they use the loudspeaker to warn the crowd before driving forward.

NYPD Patrol Guide Procedure 221-01 states that the use of deadly physical force can only be used to protect MOS and/or the public from imminent serious physical injury or death (Board Review 27).

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Force: Police Officer Arthur Roldan threatened individuals with the use of force.

Allegation (G) Force: Police Officer Arthur Roldan damaged § 87(2)(b) s property.
IAB did not investigate any allegations against PO Roldan.

§ 87(2)(b) saw PO Roldan's SUV driving towards a crowd, but she did not know if PO Roldan struck any civilians with his SUV (Board Review 04). § 87(2)(b) stated that no one hit or threw anything at PO Roldan's vehicle. She only saw water bottles thrown at it after it drove off. She did not see any damages to PO Roldan's vehicle. None of the other civilians interviewed by the CCRB or IAB mentioned seeing PO Roldan's vehicle.

In their IAB statements, § 87(2)(b) and § 87(2)(b) saw PO Roldan's vehicle running over a bicycle (Board Review 53 and 54). § 87(2)(b) stated that civilians tried to stop PO Roldan's vehicle by throwing a cone and trash bag on it

As noted above, PO Roldan and Sgt. Lecorps also responded to PO Miroshnyk and PO Dicamillo calls for assistance over the radio. When they first received the call, they were in the 78th Precinct stationhouse which is approximately a block away from Flatbush Avenue and St. Marks Place (Board Review 09-11). PO Roldan was the operator of RMP #4702 and Sgt. Lecorps was in the front passenger seat. PO Roldan did not recall the route he took, but he recalled driving on Flatbush Avenue. Sgt. Lecorps stated that they drove on 6th Avenue and then made a left onto Flatbush Avenue. PO Roldan travelled south on Flatbush Avenue.

In their CCRB statements, Sgt. Lecorps stated that he saw a crowd approximately three blocks down Flatbush Avenue and PO Roldan stated that he saw a crowd once they turned onto Flatbush Avenue. Additionally, PO Roldan stated that he saw flashing lights from police vehicles further up the street. PO Roldan's view of the other police vehicles were obstructed by large crowd. Sgt. Lecorps stated that he never saw any additional police vehicles. PO Roldan stated that he continued to drive in the direction of where the crowd was because that was the direction of where the officers needed assistance were. During the interview, PO Roldan stated that he did not know if there was an open path for their vehicle to drive through on Flatbush Avenue. Sgt. Lecorps stated that as they were approximately two blocks away from the crowd, he saw an open path to drive towards St. Marks Avenue and Flatbush Avenue, but he did not see an open path to drive through that intersection. Their vehicle's lights and sirens were activated and as they came closer to the crowd, Sgt. Lecorps went over the loudspeaker approximately five times telling the people to disperse. In response, the civilians began to surround their vehicle. PO Roldan did not turn his vehicle around at the time because he was trying to get to the officer who needed assistance. PO Roldan stated that the civilians hit the back of the vehicle, pulled on the door handles, threw unknown objects, and

tried to break the side mirrors. Sgt. Lecorps also stated that several civilians tried to pull the front passenger door open; the door was locked, and the windows were up. Sgt. Lecorps could not describe what was thrown at their vehicle, but the objects broke the rear windshield and two rear windows. Sgt. Lecorps heard civilians yelling, but he did not know what was said. PO Roldan feared he would get hurt or die. PO Roldan did not know the speed he was driving, but he did not recall driving fast.

PO Roldan turned onto St. Marks Avenue to escape the crowd. PO Roldan believed that was the best route to avoid anyone being injured because there were fewer people as opposed to going through a big crowd of people. PO Roldan did not know how many people were on the opposite side of the direction he turned. PO Roldan was unable to describe the specific actions of the individuals who were in front of his vehicle because everything happened quickly. PO Roldan was not certain if anyone held a bicycle in front of his vehicle. Sgt. Lecorps stated that the civilians prevented their vehicle from going through by holding objects in front of their vehicle; aside from traffic cones, Sgt. Lecorps did not recall what other objects were used. PO Roldan did not recall running over a bicycle and Sgt. Lecorps did not recall one being damaged by their vehicle. As PO Roldan turned his vehicle, people began moving out of the way and PO Roldan “wiggled” his way down the street. PO Roldan and Sgt. Lecorps were not injured during this incident. Sgt. Lecorps denied striking any civilians with his vehicle.

Sgt. Lecorps and PO Roldan denied being training on what to do when civilians surround a police vehicle.

Sgt. Lecorps did not activate his BWC during the incident because he prioritized assisting officers over activating his BWC and PO Roldan stated that everything happened too quickly for him to activate it. At the beginning of video footage obtained from Twitter, PO Samusev and PO Grant’s vehicle is stopped in the middle of the street with an orange barricade bent on the ground in front of it (Board Review 31). At 00:02 the camera pans approximately 180 degrees and a crowd of civilians, including § 87(2)(b) holding a bicycle in front of the vehicle, surround PO Roldan’s vehicle. At the beginning, PO Roldan reverses his vehicle, stops, and then proceeds forward. There appears to be people to the side and at the rear of the vehicle. At 00:09, PO Roldan drives forward while the civilian continues to hold their bicycle in between them and the PO Roldan’s vehicle. A water bottle, an orange construction cone, and unknown liquids are thrown at PO Roldan’s vehicle. At 00:14, several civilians strike the passenger side of PO Roldan’s vehicle with their hands and legs. PO Roldan subsequently turns to the left towards a side street and civilians move away. At 00:27, as PO Roldan drives down St. Marks Avenue, it appears that the vehicle runs over a bicycle in the middle of the street.

§ 87(2)(b) provided video footage of a different angle of what was captured in the Twitter footage above (Board Review 32). The video is largely consistent with the Twitter video above, but § 87(2)(b)’s video showed a better view of the scene on Flatbush Avenue. A large group of civilians is seen scattered around PO Samusev’s vehicle stopped on Flatbush Avenue. At 00:57, the cameraperson is by the intersection St. Marks and Flatbush Avenue. PO Roldan’s vehicle is travelling on Flatbush Avenue and turns onto St. Marks Avenue as the civilians on the street begin to avoid the vehicle. There is an orange construction cone on the windshield as the vehicle drives off. At 1:00-1:02, it appears that the rear passenger quarter window and the rear windshield are damaged. The investigation determined that this video captured PO Roldan’s vehicle immediately after it ran over the bicycle.

Sgt. Lecorps provided four photos he took of the damages to RMP#4702 (Board Review 33). The photos depict the rear windshield and rear passenger and rear driver quarter window almost

completely gone.

NYPD Patrol Guide Procedure 221-01 states that the use of deadly physical force can only be used to protect MOS and/or the public from imminent serious physical injury or death (Board Review 27).

Officers must give due respect to property and may only damage property if doing so is “reasonably necessary” to effectuate their duties, Onderdonk v. State 170 Misc. 2d 155(1966) (Board Review 34).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(4-b) § 87(2)(g) [REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to three CCRB complaints and has been named as a victim in seven allegations (Board Review 40):

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 41).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 42).
- This is the first complaint to which § 87(2)(b) has been a party (Board Review 43).

Squad No.: 8

Investigator:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>01/28/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>1/28/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date